

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated July 25, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-22 are pending in the Application.

In the Office Action, claim 21 is rejected under 35 U.S.C. §112, first paragraph, as allegedly being directed to non-statutory subject matter since it is alleged that "computer readable medium" has not been described in the specification as filed and as such constitutes new matter. Applicants respectfully disagree with and explicitly traverse these grounds for rejecting claim 21. It is the Applicants' position that computer readable medium is well described in the application as filed. For example, FIG. 1 shows such a medium as carrier 112. The specification on page 5, lines 8-18, states that:

FIG. 1 shows a schematic representation of a system 100 for augmenting an audio signal. The system 100 consists of a central processing unit (CPU) 102 connected to memory (ROM) 104 and memory (RAM) 106 via a general data-bus 108. Computer code or software 110 on a carrier 112 may be loaded into RAM 106 (or alternatively provided in ROM 104), the code causing the CPU 102 to perform instructions embodying a method or

methods according to the invention. The CPU 102 is connected to a store 114 and to output devices 116, 118. A user interface (UI) 120 is provided.

The system 100 may be embodied as a conventional home personal computer (PC) with the output device 116 taking the form of a computer monitor or display.

FIG. 1 shows an image of a disk as carrier 112 and states that the system may be a conventional home personal computer. Accordingly, it is incomprehensible how the Final Office Action could hold that the computer readable memory medium is not supported sufficiently by the description of the carrier. It must be further pointed out that claim 21 originally recited "[p]rogram code on a carrier which when executed by a processor ..." but that the Office Action of February 21, 2008 objected to this language as non-statutory (see, Office Action of February 21, 2008, page 2). In fact, it was the Office Action that interpreted claim 21 as being directed to a computer readable medium. While the Applicants objected to the interpretation of prior claim 21 as being non-statutory, the Applicants amended claim 21 to comply with the interpretation provided in the Office Action in the interest of expediting consideration and allowance of the application (see, May 21, 2008 amendment, page 10, first paragraph). It is respectfully

submitted that the specification as filed more than adequately supports the program code stored on a computer readable as recited in claim 21. Accordingly, it is respectfully requested that the rejection of claim 21 under 35 U.S.C. §112, first paragraph, be withdrawn.

In the Final Office Action, claims 1-3, 5, 7, 9-10, and 16-22 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over European Patent Publication WO 01/11495 to Finn ("Finn") in view of U.S. Patent No. 6,355,869 to Mitton ("Mitton"). Claim 4 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over Finn in view of Mitton in further view of U.S. Patent Publication No. 2003/0045954 to Weare ("Weare"). Claim 8 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over Finn in view of Mitton in further view of U.S. Patent Publication No. 2002/0106127 to Kodama ("Kodama"). Claims 6 and 11-14 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Finn in view of Mitton in further view of U.S. Patent No. 6,954,894 to Balnaves ("Balnaves"). Claim 15 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over Finn in view of Mitton in further view of U.S. Patent No. 6,308,154 to Williams ("Williams"). These rejections are respectfully traversed. It is respectfully

submitted that claims 1-22 are allowable over Finn in view of Mitton alone and in view of any combination of Weare, Kodama, Balnaves and Williams for at least the following reasons.

Finn, as appropriately titled, is related to "Music Database Searching". As stated in Finn, the Finn (emphasis added) "invention relates to search engines and databases, and in particular to search engines adapted to search for particular musical sequences or phrases in a database of recorded or encoded sound files in a computer system." (See, Finn, page 1, lines 3-5.) Finn further goes on to say that (emphasis added) "it is desirable to be able to search a music database for a specific piece of music." (See, Finn, page 1, lines 13-14.) FIG. 1 shows Finn's system including a database 9 wherein (emphasis added) "the search criteria are compared with relevant features in each music file in a database 9 or 10." (See, Finn, page 11, lines 8-10.)

While Finn, page 3, lines 5-7 is cited in support of the notion that Finn shows "obtaining media fragments at least in part in dependence on the table of dramatic parameters, wherein the media fragments are not audio media fragments and wherein the media fragments are unrelated to the audio signal prior to the obtaining act" as for example recited in claim 1, it respectfully submitted

that reliance on Finn is misplaced. In fact, lines 5-7 of Finn states (emphasis added):

It is a further object of the present invention to provide a method and apparatus for applying musical search criteria to a database to obtain a match against target music files in a computer storage medium.

It is not understood how the "target music files" of Finn are considered to not be an audio media fragment as specifically excluded from the claims as presented. Based on the foregoing, it is respectfully submitted that the method of claim 1 is not anticipated or made obvious by the teachings of Finn in view of Mitton. For example, Finn in view of Mitton does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis added) "generating a time ordered table of dramatic parameters according to the extracted features, obtaining media fragments at least in part in dependence on the table of dramatic parameters, wherein the media fragments are not audio media fragments and wherein the media fragments are unrelated to the audio signal prior to the obtaining act, and outputting said media fragments" as recited in claim 1, and as similarly recited in claim 17.

It must be noted that Mitton similar to Finn, relates to audio music files and shows creating an editable music file from a music recording. As such, Mitton does nothing to provide that which is missing from Finn.

Each of Weare, Kodama, Balnaves and Williams are introduced for allegedly showing elements of the dependent claims and as such, do nothing to cure the deficiencies in each of Finn and Mitton.

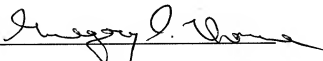
Based on the foregoing, the Applicants respectfully submit that independent claims 1 and 17 are patentable over Finn in view of Mitton and notice to this effect is earnestly solicited. Claims 2-16 and 18-22 respectively depend from one of claims 1 and 17 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position,

should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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